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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/734,726

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David M. Murphy

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7590

06/07/2006

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EXAMINER

A, PHI DIEU TRAN

ART UNIT

PAPER NUMBER

3637

DATE MAILED: 06/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/734,726

Applicant(s)

MURPHY ET AL.

Examiner

Phi D. A

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) 4-6, 11, 12, 14-18 and 26-39 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 7-10, 13, 19-25 and 40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>6/30/04</u> . | 6) <input type="checkbox"/> Other: _____ |

Election/Restrictions

1. Claims 4-6, 11-12, 14-18, 26-39 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected specie, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 3/21/06.

2. Applicant's election with traverse of claims 1-3, 7-10, 13, 19-25, 40 in the reply filed on 3/21/06 is acknowledged. The traversal is on the ground(s) that the restriction does not satisfy the criteria set forth MPEP 808, namely the criteria of independent and distinct invention, and serious burden on the examiner, and that the scope of the claims 4-6, 11-12, 14-18 overlap those of claims 1-3, 7-10, 13, 19-25, 40, and that there is improper basis for restricting a subcombination from the combination. This is not found persuasive because first of all, the different species have distinctive features which are separate from one another and independent of each other, secondly, having to search all the species set forth by applicant certainly will place a serious burden on the examiner, and thirdly, by choosing a specie to prosecute, it is within applicant's right to have the claims applicable on the elected specie prosecuted, and it appears applicant has done that by pointing out the elected claims.

The requirement is still deemed proper and is therefore made FINAL.

Furthermore, if applicant thinks that the species are not distinctive and the teaching of one specie would read on another specie, applicant is respectfully asked to point that out.

Also, upon examination, claim 19 is found to depend on a non-elected specie of claim 14, the 19 is thus withdrawn from consideration.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3, 8, 9, 13, 20-21, 25, 40 are rejected under 35 U.S.C. 102(e) as being anticipated by Lipscomb (6931812).

Lipscomb (figures 33-38) shows a deployable truss comprising a plurality of column member (figure 35 shows half of one column member) connected at their ends (figure 33) to form a deployable truss that forms a rigid structure in a deployed state and that has a stowage volume less than its deployed volume in a collapsed state, at least some of the column members comprise column assemblies including a plurality of strut members (86) connected each other at a first end (connected to each other through part 88, figure 35) of the column assembly and a second end of the column assembly (figure 33 and 38, an identical part that is connected to part

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88 top of figure 35), strut members of a column assembly are symmetrically arranged about the centerline of the column assembly, the strut members (86) of a column assembly being connected to each other at a location between the first and second ends of the column assembly when the truss is in the deployed state (when an identical part is inversely stacked on part 88 as shown in figure 33), each column further comprises a spacer (88) connecting the strut members of the assembly at a location between the first and second ends of the assembly, the spacer connects the strut member of the assembly near the midpoint between the first and second ends of the column, the strut members of the column assembly taper toward the centerline of the assembly at the first and second ends of the assembly when the truss is in the deployed state, at least some of the truss comprise tubes, at least some of the strut members comprise rods, the column assemblies are tapered on at least one end,

5. Claims 1, 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Miller (3221464).

Miller (figure 3) shows a deployable truss comprising a plurality of column member (the columns are separate from each by the connecting joists at (109), one column having part 1, the second column having part(10) connected at their ends to form a deployable truss that forms a rigid strucuter in a deployed state and that has a stowage volumen less than its deployed volumen in a collapsed state, at least some of the column members comprise column assemblies including a plurality of strut members (one of the three legs 102 of the column) connected each other at a first end (by part 16f, 16e) of the column assembly and a second end of the column assembly (same as the first end but on the opposite side thereof), the strut members of one assembly are connected to each other at a location (by part 16a, 16b, 16g) between the first and second ends of the column when the truss is in a deployed state, at least some of the strut members being of

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the column assembly include a helical twist (figure 3) around the centerline of the column assembly.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lipscomb (6931812).

Lipscomb shows all the claimed limitations except for the strut members being formed from a continuous fiber reinforced composite material, the material comprising glass fibers, the material comprising graphite fibers.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Lipscomb's structure to show the strut members being formed from a continuous fiber reinforced composite material, the material comprising glass fibers, the material comprising graphite fibers because continuous fiber reinforced composite material, the material comprising glass fibers, the material comprising graphite fibers are well known material for reinforcing a tubular member as it enables the member to resistant bending and increase structural strength.

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Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art shows different truss designs.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 571-272-6864. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Phi Dieu Tran A

5/30/06